

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO.: 01-CR-50050-3FL

vs.

HON. PAUL V. GADOLA

MAG. JUDGE MICHAEL J. HLUCHANIUK

KENNETH EVERETT HEDRICK,

Defendant.

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ORDER OF DETENTION
PENDING REVOCATION PROCEEDINGS

On December 17, 2007, a petition was filed alleging that defendant Kenneth Everett Hedrick had violated the terms of his supervised release which had been imposed as part of his sentence for being convicted of conspiracy to possess stolen property. The original sentence of 21 months imprisonment had been imposed on April 23, 2002, and his supervision began on September 29, 2005.

The violation petition alleges that the defendant violated his supervised release by using a controlled substance on several occasions in 2006 (Violation # 1) and by using alcohol on several occasions in 2006 and 2007, including an allegation that the defendant was drinking and driving (Violation # 2).

The defendant was arrested based on the warrant issued following the filing of the supervised release violation petition and he appeared in court on January 7, 2008. At the hearing the defendant was informed of his rights relating to the alleged violation of his supervised release and the government requested that he be detained pending the revocation hearing before the sentencing judge. The defense requested a hearing regarding the government's request for

detention and such a hearing was held on January 10, 2008.

At the hearing defense counsel proffered that the defendant's use of cocaine was limited to a period in 2006 and that he had not had any recent instances of drug use. Defense counsel also noted that no state charges had been filed against the defendant relating to a November, 2007, incident in which the defendant had been arrested by the Michigan State Police after being found in a vehicle that had ran off the road. Defense counsel further noted that the defendant was employed and was the sole source of support for his son.

Government counsel noted that the defendant had an extended history of using a controlled substance and alcohol while on supervised release and that the defendant had appeared in court on January 7, 2008, after apparently using alcohol (as witnessed by the Probation Officer). With respect to the incident in November of 2007, government counsel was not aware whether state charges had been filed but contended that the evidence relating to the defendant's driving under the influence of alcohol was relatively strong.

The defense acknowledged that where a defendant is facing a violation of supervised release the defendant must prove, by clear and convincing evidence, that he "is not likely to flee or pose a danger to the safety of any other person or the community if released." 18 U.S.C. § 3143(a). This standard is made applicable to supervised release violation matters by Fed. R. Crim. P. 32.1(a)(6).

I take the allegations in the petition as being established, at least to the standard of probable cause, because the defendant has not requested a probable cause hearing as provided for in Rule 32.1(b)(1). Based on the defendant's use of controlled substances, his use of alcohol while driving and his consumption of alcohol just before coming to court, I find that the defendant has failed to meet his burden, by clear and convincing evidence, that he is not likely to

flee and that he is not a danger to the community if released.

Accordingly, the defendant shall be detained without bond in this matter pending further proceedings relating to the violation of supervised release which are presently scheduled for January 17, 2008, before the sentencing judge.

The defendant is hereby remanded to the custody of the United States Marshal.

IT IS SO ORDERED.

Dated: January 11, 2008

s/ Michael J. Hluchaniuk
Michael J. Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Robert W. Haviland, AUSA, Kenneth R. Sasse, Esq., and I hereby certify that I have mailed by United States Postal Service or hand delivered the paper to the following non-ECF participants: U.S. Marshal, 600 Church St., Flint, MI, Probation Officer, 600 Church St., Flint, MI

s/ James P. Peltier
James P. Peltier
Courtroom Deputy Clerk